

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

**FILED**

JUL 10 2017

CARMELITA REEDER SHINN, CLERK  
U.S. DIST. COURT, WESTERN DIST. OKLA.  
BY KE DEPUTY

WALLACE GILBERT MITCHELL

(Enter the full name of the plaintiff.)

**CIV - 17-732**

**HE**

v.

Case No. \_\_\_\_\_  
(Court Clerk will insert case number)

(1) TIM GERLACH, WARDEN

(2) SERGEANT OWINGS (OWENS)

(3) \_\_\_\_\_

*IN MY PERSONAL AND  
OFFICIAL CAPACITY*

(Enter the full name of each defendant. Attach  
additional sheets as necessary.)

**PRO SE PRISONER CIVIL RIGHTS COMPLAINT**

Initial Instructions

1. You must type or legibly handwrite the Complaint, and you must answer all questions concisely and in the proper space. Where more space is needed to answer any question, you may attach a separate sheet.
2. You must provide a full name for each defendant and describe where that defendant resides or can be located.
3. You must send the original complaint and one copy to the Clerk of the District Court.
4. You must pay an initial fee of \$400 (including a \$350 filing fee and a \$50 administrative fee). The complaint will not be considered filed until the Clerk receives the \$400 fee or you are granted permission to proceed *in forma pauperis*.
5. If you cannot prepay the \$400 fee, you may request permission to proceed *in forma pauperis* in accordance with the procedures set forth in the Court's form application to proceed *in forma pauperis*. See 28 U.S.C. § 1915; Local Civil Rule 3.3.

- If the court grants your request, the \$50 administrative fee will not be assessed and your total filing fee will be \$350.
- You will be required to make an initial partial payment, which the court will calculate, and then prison officials will deduct the remaining balance from your prison accounts over time.
- These deductions will be made until the entire \$350 filing fee is paid, **regardless of how the court decides your case.**

7. The Court will review your complaint before deciding whether to authorize service of process on the defendants. See 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c)(1). If the Court grants such permission, the Clerk will send you the necessary instructions and forms.

8. If you have been granted permission to proceed *in forma pauperis*, the United States Marshals Service will be authorized to serve the defendants based on information you provide. If you have not been granted permission to proceed *in forma pauperis*, you will be responsible for service of a separate summons and copy of the complaint on each defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure.

### COMPLAINT

**I. Jurisdiction is asserted pursuant to:**

X 42 U.S.C. § 1983 and 28 U.S.C. § 1343(a)(3) (NOTE: these provisions generally apply to state prisoners), or

\_\_\_ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and 28 U.S.C. § 1331 (NOTE: these provisions generally apply to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

PRISON Rape Elimination Act (PREA) 42 U.S.C. § 15601

et seq.

**II. State whether you are a:**

- ☐ Convicted and sentenced state prisoner  
☐ Convicted and sentenced federal prisoner  
☐ Pretrial detainee  
☐ Immigration detainee  
☐ Civilly committed detainee  
☐ Other (please explain) \_\_\_\_\_

**III. Previous Federal Civil Actions or Appeals**

List each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility.

1. Prior Civil Action/Appeal No. 1

a. Parties to previous lawsuit:

Plaintiff(s): N/A

Defendant(s): \_\_\_\_\_

b. Court and docket number: \_\_\_\_\_

c. Approximate date of filing: \_\_\_\_\_

d. Issues raised: \_\_\_\_\_

e. Disposition (for example: Did you win? Was the case dismissed? Was summary judgment entered against you? Is the case still pending? Did you appeal?): \_\_\_\_\_

f. Approximate date of disposition: \_\_\_\_\_

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a separate sheet(s).



#### IV. Parties to Current Lawsuit

State information about yourself and each person or company listed as a defendant in the caption (the heading) of this complaint.

1. Plaintiff

Name and any aliases: WALLACE GILBERT-MITCHELL

Address: 1901 D STREET SE, WASHINGTON, DC 20003

Inmate No.: 245357

2. Defendant No. 1

Name and official position: IM GERLACH, WARDEN

Place of employment and/or residence: GRADY COUNTY LAW EN-  
FORCEMENT CENTER (GCLC) 215 N. 3RD ST / PO BOX 1148  
CHICKASHA, OK 73018

How is this person sued? ( ) official capacity, ( ) individual capacity, (X) both

3. Defendant No. 2

Name and official position: SERGEANT OWINGS (OWENS)

JAIL GUARD

Place of employment and/or residence: GCLC 215 N. 3RD ST  
/ PO BOX 1148, CHICKASHA, OK 73018

How is this person sued? ( ) official capacity, ( ) individual capacity, (X) both

If there are more than two defendants, describe the additional defendants using this same format on a separate sheet(s).

## V. Cause of Action

### Instructions

1. *Provide a short and plain statement of each claim.*
  - Describe the facts that are the basis for your claim.
  - You can generally only sue defendants who were directly involved in harming you. Describe how each defendant violated your rights, giving dates and places.
  - Explain how you were hurt and the extent of your injuries.
2. *You are not required to cite case law.*
  - Describe the constitutional or statutory rights you believe the defendant(s) violated.
  - At this stage in the proceedings, you do not need to cite or discuss any case law.
3. *You are not required to attach exhibits.*
  - If you do attach exhibits, you should refer to the exhibits in the statement of your claim and explain why you included them.
4. *Be aware of the requirement that you exhaust prison grievance procedures **before** filing your lawsuit.*
  - If the evidence shows that you did not fully comply with an available prison grievance process prior to filing this lawsuit, the court may dismiss the unexhausted claim(s) or grant judgment against you. See 42 U.S.C. § 1997e(a).
  - Every claim you raise must be exhausted in the appropriate manner.
5. *Be aware of any statute of limitations.*
  - If you are suing about events that happened in the past, your case may be subject to dismissal under the statute of limitations. For example, for many civil rights claims, an action must be brought within two years from the date when the plaintiff knew or had reason to know of the injury that is the basis for the claim.

6. Do not include claims relating to your criminal conviction or to prison disciplinary proceedings that resulted in loss of good time credits.

- If a ruling in your favor "would necessarily imply the invalidity" of a criminal conviction or prison disciplinary punishment affecting the time served, then you cannot make these claims in a civil rights complaint unless you have already had the conviction or prison disciplinary proceeding invalidated, for example through a habeas proceeding.

### Claims

List the federal right(s) that you believe have been violated, and describe what happened. Each alleged violation of a federal right should be listed separately as its own claim.

1. **Claim 1:**

(1) List the right that you believe was violated:

PUNISHMENT WITHOUT DUE PROCESS; CRUEL AND  
UNUSUAL PUNISHMENT; FAILURE TO PROTECT AND  
PRQA

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

IM GERLACH AND SERGEANT OWINGS



(3) List the supporting facts:

ON OR ABOUT MARCH 10, 2016, DEFENDANT OWINGS (PHONETIC "OWENS") DID SEXUALLY ASSAULT PLAINTIFF BY FORCIBLY PERFORMING ORAL SEX ON PLAINTIFF IN A SECLUDED AREA OF CCLC. GERLACH FAILED TO PROTECT PLAINTIFF AND ONCE NOTIFIED OF THE SEXUAL ASSAULT, FAILED TO TAKE ANY CORRECTIVE ACTION, OR SEPERATE PLAINTIFF FROM OWINGS.

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

TRIAL BY JURY; COMPENSARY DAMAGES OF \$5000.00  
PUNITIVE DAMAGES OF \$1,000,000.00; AN INJUNCTION AND/OR  
TEMPORARY RESTRAINING ORDER TO BAR DEFENDANTS FROM  
OPERATING CCLCS A DECLARATION THAT PLAINTIFFS RIGHTS  
WERE VIOLATED

2. Claim II:

(1) List the right that you believe was violated:

PUNISHMENT WITHOUT DUE PROCESS; CRUEL AND  
UNUSUAL PUNISHMENT.

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

Jim GERLACH AND SERGEANT OWINGS

(3) List the supporting facts:

ON OR ABOUT FEBRUARY 18, 2016 AND CONTINUING TO MARCH 20, 2016  
GIELACK FORCED PLAINTIFF INTO A CELL DESIGNED FOR 2 INMATES  
WITH 3 OTHER INMATES; BURNED THE LIGHTS IN THE CELL 24  
HOURS; PROVIDED NO SHOWER; NO OUT-OF-CELL RECREATION;  
NO OUTSIDE RECREATIONS; NO OUTSIDE LIGHT INTO THE CELL;  
NO CHANGE OF UNDERWEAR; NO CHANGE OF BED SHEETS;  
NO MEDICAL SERVICES FROM A PHYSICIAN; NO SHAVE UTENSILS;  
(SEE ATTACHED PAGES)

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

TRIAL BY JURY; COMPENSATORY DAMAGES OF \$500,000  
PUNITIVE DAMAGES OF \$1,000,000.00; AN INJUNCTION AND/  
OR TEMPORARY RESTRAINING ORDER TO BAR DEFENDANTS  
FROM OPERATING GIELACK; A DECLARATION THAT PLAINTIFF  
RIGHTS WERE VIOLATED.

If there are more than two claims that you wish to assert, describe the additional claims using this same format on a separate sheet(s).

VI. Declarations

I declare under penalty of perjury that the foregoing is true and correct.

Wallace Gilbert Patchen

Plaintiff's signature

Date

6-30-17

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the 30 day of JUNE, 2017.

Wallace Gilbert Patchen

Plaintiff's signature

Date

6-30-17



## CLAIM II (CONTINUED)

SATURATED THE CELL WITH COLD AIR CONDITION DURING WINTER SEASONS; FORCED PLAINTIFF TO CELL WITH MULTIPLE DIFFERENT RACES OF INMATES AND ACTIVE GANG MEMBERS; BLOCKED THE INMATE TELEPHONES SO THAT PLAINTIFF COULD NOT MAKE COLLECT CALLS TO HIS ATTORNEY, FAMILY MEMBERS, OR THE UNITED STATES INSPECTOR GENERAL'S HOTLINE; AND OFFERED NO MENTAL HEALTH SERVICES,